

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 36, “Extracurricular Interscholastic Competition,” Iowa Administrative Code.

The proposed amendments are the result of a periodic review of Chapter 36 that the Department undertakes with executive directors of the Iowa High School Athletic Association (IHSAA) and the Iowa Girls High School Athletic Union (IGHSAU).

The proposed amendments in Items 1, 2, and 7 clarify the prohibition against all-star players competing in all-star contests.

Item 3 rescinds the definition of “organization” because the definition includes only “registered organizations,” which are specified in rule 281—36.2(280).

Because several rules within Chapter 36 use “school” or “calendar” to modify “days,” Items 4, 6, 8, 9, and 10 add a clarifying modifier to “days” in other rules.

The changes in Item 5 to the awards rule are proposed in an attempt to keep that rule current with inflation.

The proposed amendment in Item 8 clarifies that it is not appropriate for academically ineligible students to appeal a failing grade to the IHSAA or IGHSAU; such appeals must be pursued with the student’s local school inasmuch as the athletic organizations have no authority regarding the validity of locally issued grades.

Finally, the proposed change in Item 10 reflects actual practice regarding cooperative sharing programs.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before October 26, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on October 26, 2010, from 1 to 2 p.m. in the State Board Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

These amendments are intended to implement Iowa Code section 280.13.

The following amendments are proposed.

ITEM 1. Rescind the definition of “All-star” in rule **281—36.1(280)** and adopt the following **new** definition in lieu thereof:

“*All-star*” means a secondary student from a high school interscholastic athletic team whose outstanding performance is the basis for the student’s selection to compete individually in an all-star contest or on an all-star high school team to compete with other all-stars from several other high school teams against another all-star team in an all-star contest. An “all-star” shall not include a twelfth grade student whose interscholastic athletic season for the sport in question has concluded.

NOTE: Bylaw 14.6 of the National Collegiate Athletic Association (NCAA) (as revised 7/30/10) states that a “student-athlete shall be denied the first year of intercollegiate athletics competition

if, following completion of high-school eligibility in the student-athlete's sport and prior to the student-athlete's high-school graduation, the student-athlete competes in more than two all-star football contests or two all-star basketball contests."

ITEM 2. Adopt the following **new** definition of "All-star contest" in rule **281—36.1(280)**:

"*All-star contest*" means an event for which admission is charged and at which all-stars compete during the school year against other all-stars, either individually or as all-star teams. "All-star contests" shall not include noninvitational events for which students audition or try out or the auditions or try outs themselves.

ITEM 3. Rescind the definition of "Organization" in rule **281—36.1(280)**.

ITEM 4. Amend subrule 36.14(1) as follows:

36.14(1) Physical examination. Every year each student shall present to the student's superintendent a certificate signed by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner, to the effect that the student has been examined and may safely engage in athletic competition.

Each doctor of chiropractic licensed as of July 1, 1974, shall affirm on each certificate of physical examination completed that the affidavit required by Iowa Code section 151.8 is on file with the Iowa board of chiropractic ~~examiners~~.

The certificate of physical examination is valid for the purpose of this rule for one calendar year. A grace period not to exceed 30 calendar days is allowed for expired physical certifications.

A student shall not be required to submit to a physical examination if the student's parent or the 18-year-old student submits to a school administrator an affidavit that the physical examination requirement conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member.

ITEM 5. Amend subrule 36.14(3) as follows:

36.14(3) Awards.

a. ~~Awards from the student's a secondary school or registered organization.~~ A For participation in an interscholastic athletic contest or program, a student will be permitted to receive only the customary ribbon or medal for participation in an interscholastic athletic contest. A student will be allowed to receive from the student's school, another secondary school, a registered organization, or the host of an event sanctioned by a registered organization for participation in the interscholastic athletic program, an award whose value cannot exceed \$25 \$50. Nothing in this subrule shall preclude or prevent the awarding and the acceptance of an inexpensive, unmounted, unframed paper certificate of recognition as an award, or an inexpensive table favor which is given to everyone attending a banquet.

b. ~~Awards for participation in school programs from other than the student's school an individual or organization other than a secondary school or registered organization.~~ No student shall receive any award from an individual or outside organization for high school participation while enrolled in high school, except that nothing in this subrule shall preclude the giving of a complimentary dinner by local individuals, organizations, or groups, with approval of the superintendent, to members of the local high school athletic squad. No student shall accept any trip or excursion of any kind by any individual, organization, or group outside the student's own school or the governing organization, with the exception of bona fide recruiting trips that meet NCAA requirements. Nothing in this subrule shall preclude or prevent the awarding and the acceptance of an inexpensive, unmounted, unframed paper certificate of recognition as an award, or an inexpensive table favor which is given to everyone attending a banquet.

c. ~~Awards for participation in nonschool programs.~~ If a student participates in an outside school activity during the school year, the student may not receive any award the value of which exceeds \$25 provided that the award does not violate the amateur award rule of the amateur sanctioning body for that sport. During the summer months, a student may enter an event in any sport as an individual or as a member of a team not representing the student's school, subject to subrule 36.15(6). If the student wins an award, the student may accept the award provided it does not violate the amateur award rule of the

~~amateur sanctioning body for that sport.~~ In the absence of an applicable amateur award rule, the student shall not receive any award the value of which exceeds \$50.

d. Absolute prohibition on cash or cash equivalent. At no time may any student accept an award of cash ~~or cash equivalent~~.

e. No change.

ITEM 6. Amend paragraph **36.15(3)“a,”** introductory paragraph, as follows:

a. Exceptions. The executive officer or executive board shall consider and apply the following exceptions in formally or informally ruling upon the eligibility of a transfer student and may make eligibility contingent upon proof that the student has been in attendance in the new school for at least ten school days:

ITEM 7. Amend paragraph **36.15(6)“a”** as follows:

a. School personnel, whether employed or volunteers, of a member or associate member school shall not coach that school’s student athletes during the school year in a sport for which the school personnel are currently under contract or are volunteers, outside the period from the official first day of practice through the finals of tournament play. Provided, however, school personnel may coach a senior student from the coach’s school in an all-star contest once the senior student’s interscholastic athletic season for that sport has concluded. ~~Not shall~~ In addition, volunteer or compensated coaching personnel shall not require students to participate in any activities outside the season of that coach’s sport as a condition of participation in the coach’s sport during its season.

ITEM 8. Amend rule 281—36.16(280) as follows:

281—36.16(280) Executive board review. A student, parent of a minor student, or school contesting the ruling of a student’s eligibility based on these rules, other than subrule 36.15(1); or paragraph 36.15(2)“c,” “d,” “f,” or “k,” or a school contesting a penalty imposed under ~~subrule~~ paragraph 36.15(6), paragraph “b,” shall be required to state the basis of the objections in writing ~~and may also request an oral hearing,~~ addressed to the executive officer of the board of the governing organization. ~~The~~ Upon request of a student, parent of a minor student, or a school, the executive officer shall schedule a hearing before the executive board on or before the next regularly scheduled meeting of the executive board; but not later than 20 calendar days following the receipt of the objections unless a later time is mutually agreeable. The executive board shall give at least 5 business days’ written notice of the hearing. The executive board shall consider the evidence presented and issue findings and conclusions in a written decision within 5 business days of the hearing; and shall mail a copy to appellant.

ITEM 9. Amend rule 281—36.17(280) as follows:

281—36.17(280) Appeals to director. If the claimant is still dissatisfied, an appeal may be made in writing to the director of education by giving written notice of the appeal to the state director of education with a copy by registered mail to the executive officer of the governing organization. An appeal shall be in the form of an affidavit and shall be filed within 10 business days after the date of mailing of the decision of the governing organization. The director of education shall establish a date for hearing within 20 calendar days of receipt of written notice of appeal by giving at least 5 business days’ written notice of hearing to the appellant unless another time is mutually agreeable. The procedures for hearing adopted by the state board of education and found at 281—Chapter 6 shall be applicable, except that the decision of the director is final. Appeals to the executive board and the state director are not contested cases under Iowa Code subsection 17A.2(2)(5).

ITEM 10. Amend subrules 36.20(6) and 36.20(7) as follows:

36.20(6) A copy of the written agreement between the governing boards of the particular schools involved, and all amendments to the agreement, shall be filed with the appropriate governing organization(s) no later than April 30 for the subsequent year, unless exception is granted by the organization for good cause shown. The agreements and amendments shall be deemed approved unless denied by the governing organization(s) within ten calendar days;

36.20(7) ~~Interscholastic competition is engaged in only under the name of the host school.~~ It is the purpose of this rule to allow individual students participation in interscholastic competition in activities not available to them at the school they attend, through local policy or arrangements made between the governing boards of the schools involved, so long as the interscholastic activities of other schools are not substantially prejudiced. Substantial prejudice shall include, but not necessarily be limited to, situations where a cooperative effort may result in an unfair domination of an activity; or substantial disruption of activity classifications and management. In the event an activity organization determines, after investigation, that an agreement between schools that was developed under the terms of ~~these subrules~~ this rule results in substantial prejudice to other schools engaged in the activity, or the terms of the agreement are not in conformity with the purpose and terms of this rule, the activity organization may give timely notice to the schools involved that the local policy or agreement between them is null and void for the purposes of this rule, insofar as cooperative student participation is concerned with a particular activity. Determinations are appealable to the director of education under the applicable terms of 281—36.17(280). For notice to be timely, it must be given at least 45 calendar days prior to the beginning of the activity season.